

REFERENCE TITLE: **burial responsibility**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1023

Introduced by
Senator Harper

AN ACT

**AMENDING SECTION 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL
RESPONSIBILITY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-831, Arizona Revised Statutes, is amended to
3 read:

4 36-831. Burial duties; notification requirements; failure to
5 perform duty; definitions

6 A. Except as provided pursuant to subsection G of this section, the
7 duty of burying the body of or providing other funeral and disposition
8 arrangements for a dead person devolves in the following order:

9 1. If the dead person was married, on the surviving spouse.

10 2. If the dead person was a minor, on the parents.

11 3. ~~If the dead person has no surviving spouse,~~ On the adult children
12 of the dead person IF:

13 (a) THE DEAD PERSON HAS NO SURVIVING SPOUSE.

14 (b) THE DEAD PERSON WAS LEGALLY SEPARATED FROM THE PERSON'S SPOUSE.

15 (c) A PETITION FOR DIVORCE OR FOR LEGAL SEPARATION FROM THE DEAD
16 PERSON'S SPOUSE WAS PENDING AT THE TIME OF DEATH.

17 4. If none of the persons named in paragraphs 1, 2 and 3 of this
18 subsection are financially capable of providing for the burial or other
19 funeral and disposition arrangements, or cannot be located on reasonable
20 inquiry, on any person or fraternal, charitable or religious organization
21 willing to assume responsibility.

22 B. If none of the persons named in subsection A of this section is
23 willing or financially able to bury or provide other funeral and disposition
24 arrangements for a dead person, or if the person cannot be located after
25 reasonable efforts have been made to do so, the county in which death occurs
26 shall bury or place in a permanent care crypt the dead body or cremated
27 remains of a dead body. If the decedent is known to be an honorably
28 discharged veteran or the surviving spouse of an honorably discharged
29 veteran, the county shall notify the veterans' administration or a local
30 veteran's organization, or both, of the death and give that organization the
31 opportunity to provide for the person's burial or for other funeral and
32 disposition arrangements. If the organization is unable to provide for the
33 burial of the veteran or the surviving spouse, the county shall ensure that
34 the decedent is properly interred and that burial is made in a veterans'
35 cemetery or a portion of a cemetery that is designated for the burial of
36 veterans and spouses of veterans.

37 C. If the county medical examiner or person performing the duties of
38 the county medical examiner knows that the dead person is a member of a
39 federally recognized Native American tribe located in this state, the county
40 medical examiner or person performing the duties of the county medical
41 examiner must notify the tribe and give the tribe the opportunity to provide
42 for the person's burial or other funeral and disposition arrangements. If an
43 autopsy is required by section 11-597, the county medical examiner or person
44 performing the duties of the county medical examiner, if possible, shall
45 complete the autopsy and return the remains to the federally recognized

1 Native American tribe located in this state within four calendar days after
2 the determined date of death.

3 D. A person on whom the duty prescribed in subsection A of this
4 section is imposed who omits or is unwilling to perform that duty within a
5 reasonable time or is prohibited from performing that duty under subsection G
6 of this section is liable to the person performing the duty in an amount of
7 two times the expenses the person incurred in providing for the burial or
8 other funeral and disposition arrangements. The person who performs this
9 duty may recover this amount in a civil action.

10 E. Notwithstanding the probate requirements of title 14, if a county
11 is required to bury a person pursuant to subsection B of this section, the
12 county may recover the burial costs from the decedent's estate. A financial
13 institution in possession of monies in an account in the decedent's name must
14 reimburse the county for the burial costs on presentation by the county of an
15 affidavit that certifies:

16 1. The date of the decedent's death.

17 2. That, pursuant to this section, the county performed the decedent's
18 burial.

19 3. The total burial costs incurred by the county.

20 F. A person, a corporation or an agency of government that provides
21 for the burial or other funeral and disposition arrangements on the
22 instructions of a person described in subsection A of this section is immune
23 from civil liability:

24 1. For failing to honor the wishes of the decedent or the wishes of a
25 person having a higher priority in subsection A or B of this section if the
26 person, corporation or agency of government was not aware, after reasonable
27 inquiry, of the contrary wishes.

28 2. For refusing to follow conflicting directions of persons having the
29 same priority in subsection A of this section.

30 3. For following directions of a personal representative that are
31 consistent with the written testamentary instructions of the decedent.

32 G. The duty to bury or to provide other funeral and disposition
33 arrangements devolves to the next person in the order prescribed pursuant to
34 subsection A of this section if the person who is otherwise responsible for
35 performing this duty is charged with the criminal death of the person to whom
36 the duty is owed. The person who performs this duty may recover costs as
37 prescribed in subsection D of this section. If the charges against the
38 person on whom this duty originally fell are subsequently dismissed or are
39 resolved in that person's favor on the merits, the person is responsible for
40 only the actual costs.

1 H. For the purposes of this section, "person" includes a natural
2 person, a corporation, a company, a partnership, a firm, an association, a
3 society, the United States, this state, any territory, state or country, an
4 Arizona federally recognized Native American tribe, any political subdivision
5 of this state or a public or private corporation or partnership or
6 association.

7 I. For the purposes of this article, "burial" includes cremation.